

SUMMARY ANALYSIS OF AMENDED BILL

Author: Chu Analyst: Anne Mazur Bill Number: AB 911

Related Bills: See Prior Analysis Telephone: 845-5404 Amended Date: August 30, 2005

Attorney: Patrick Kusiak Sponsor: Franchise Tax Board

SUBJECT: Amnesty Clean-Up

- ☒ DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as amended June 20, 2005.
- ☐ AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.
- ☐ AMENDMENTS DID NOT RESOLVE THE DEPARTMENTS CONCERNS stated in the previous analysis of bill as introduced/amended _____.
- ☐ FURTHER AMENDMENTS NECESSARY.
- ☐ DEPARTMENT POSITION CHANGED TO _____.
- ☒ REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED June 20, 2005, STILL APPLIES.
- ☒ OTHER – See comments below.

SUMMARY

This bill would address unintended consequences of the income tax amnesty program administered by the department as follows:

1. Allow underpayments for amnesty-eligible years to be offset by overpayments from other years for purposes of computing the amnesty penalty.
2. Establish a 20-year statute of limitations to collect income or franchise tax balances due from taxpayers, and thereafter extinguish the liability to pay such balances by abating the tax.
3. Allow the Franchise Tax Board (FTB) to extinguish certain inactive taxpayer debts.
4. Repeal the provision of law that requires taxpayers that participate in amnesty to pay any tax due for the 2005 and 2006 taxable years to avoid having the benefits of amnesty revoked and the amnesty penalty imposed.
5. Make technical clarifications of certain amnesty provisions.
6. Provide that taxpayers may file a claim for refund of the amnesty penalty, but limit the grounds to whether the penalty was properly computed.

Provisions in this bill that impact the sales and use tax amnesty program administered by the Board of Equalization are not addressed in this analysis.

Board Position:	Legislative Director	Date
<input checked="" type="checkbox"/> S	<input type="checkbox"/> NA	<input type="checkbox"/> NP
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<input type="checkbox"/> N	<input type="checkbox"/> OUA	<input type="checkbox"/> PENDING

SUMMARY OF AMENDMENTS

The August 30, 2005, amendments would:

- Make nonsubstantive technical changes, including resolving the technical consideration noted in the department's analysis of the bill as amended June 20, 2005.
- Clarify that imposition of the amnesty penalty would not be considered for determining the start of the 20-year statute of limitations on collections.
- Provide that taxpayers may file a claim for refund of the amnesty penalty on grounds limited to whether the penalty was properly computed.
- Eliminate the provision in the Sales and Use Tax Law that precluded a taxpayer from filing a claim for refund for amounts paid in connection with the amnesty penalty, which has no impact on FTB.

Except as provided below, the department's analysis of each provision of this bill as amended June 20, 2005, still applies. The new Summary of Economic Impact indicates that the provision that would permit claims for refund on limited grounds would not impact revenue.

POSITION

Support.

On March 29, 2005, the FTB voted 3-0 to sponsor the original provisions of this bill.

SUMMARY OF ECONOMIC IMPACT

Estimated Revenue Impact of AB 911 (in millions)			
	2005/2006	2006/2007	2007/2008
Netting Overpayments Against Underpayments For Amnesty Years	– \$5.0	– \$5.0	– \$5.0
20-Year Statute Of Limitations For Collections To Extinguish Uncollectible Debts	– 2.0	– 2.0	– 2.0
Discretion To Extinguish Inactive Taxpayer Debts Based On Specified Criteria	Minor Loss*	Minor Loss*	Minor Loss*
Elimination Of The Amnesty Continuing Compliance Requirement	Minor Loss*	– 5.0	– 5.0
Technical Clarification Of Certain Amnesty Provisions	None	None	None
Claim For Refund Of Improperly Computed Amnesty Penalty	None	None	None
Total	– \$ 7.0	– \$12.0	– \$12.0

*A minor loss is less than \$500,000.

This estimate does not consider the possible changes in employment, personal income, or gross state product that would result from this bill.

2. ESTABLISH A STATUTE OF LIMITATIONS ON COLLECTIONS TO EXTINGUISH UNCOLLECTIBLE DEBTS

THIS PROVISION

This provision would establish a statute of limitations on collections that sets the period during which tax may be collected to the period that expires 20 years from the last statutory lien date for each tax year. An additional liability resulting from the imposition of the amnesty penalty would not be considered the last statutory lien date for determining the start of the 20-year period. After expiration of the 20-year period, the liability for the tax year would be extinguished by abating the underlying tax.

6. CLAIM FOR REFUND OF IMPROPERLY COMPUTED AMNESTY PENALTY

EFFECTIVE/OPERATIVE DATE

As an urgency statute, this provision would be effective upon enactment and operative with respect to claims for refund filed on and after that date.

ANALYSIS

STATE LAW

Taxpayers that chose not to participate in the program are subject to new and enhanced penalties with respect to any liabilities for amnesty-eligible years. Taxpayers are prohibited from filing a claim for refund or credit for any amounts paid in connection with the amnesty penalty.

THIS PROVISION

This provision would permit taxpayers to file a claim for refund for amounts paid to satisfy the amnesty penalty on the grounds that the amount of the penalty was improperly computed by department staff.

IMPLEMENTATION CONSIDERATIONS

Implementing this provision would not significantly impact the department's programs or operations.

FISCAL IMPACT

This provision would not significantly impact the department's costs.

ECONOMIC IMPACT

This provision would not impact the state's income tax revenues.

LEGISLATIVE STAFF CONTACT

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